



CITY OF SAN PABLO

COUNCIL CONSIDERATION TO ADOPT A RESOLUTION PLACING A CANNABIS BUSINESS LICENSE TAX MEASURE ON THE NOVEMBER 5, 2024 BALLOT

Presented to:

CITY COUNCIL

July 15, 2024

OVERVIEW:



- I. Background – **Prop. 64 and AUMA**
- II. FY 2023-25 City Council Priority Workplan – **Current Adopted Policies**
- III. Summary Findings from Cannabis Fiscal Analysis by HdL Consultants
- IV. Recent Survey Results from SRI, Inc. (**Annual and Electorate Survey Results**)
- V. Proposed Ballot Language for November 5, 2024 Ballot
- VI. Questions (Q & A)

BACKGROUND – PROP 64 & STATE LAW



- In 2016, California voters passed **Proposition 64**, known as the ***Adult Use of Marijuana Act (AUMA)***, legalizing the recreational use of cannabis in California for adults 21 and over.
- AUMA established a state-level regulatory framework for the cultivation, distribution, and sale of cannabis, while also imposing state taxes on such activities, including a 15% excise tax on retail sales.
- Notwithstanding statewide legalization under AUMA, California cities and counties continue to retain broad independent authority to permit, regulate, and tax cannabis businesses within their respective jurisdictions.
- Though California cities are now required to allow limited indoor cultivation for personal use, and the delivery of cannabis to consumers from state-licensed cannabis delivery businesses, cities continue to maintain discretion over whether to further allow additional business activities such as commercial cultivation or retail sales.
- The City of San Pablo currently **prohibits** these additional commercial activities. To the extent the City Council may decide to allow additional cannabis uses in the future, it also retains the authority to regulate the location, operation, and licensing of such uses, as well as the authority to impose additional local taxes, **with voter approval**, for the privilege of engaging in such business activities.

FY 2023-25 COUNCIL PRIORITY WORKPLAN



During previous City Council deliberations, the current adopted FY 2023-25 Council Priority Workplan contains the following adopted policies which have been added to the Workplan via previous adopted Resolutions, as follows:

UNDER MAJOR POLICY: FOCUS ON ECONOMIC DEVELOPMENT AND FISCAL DIVERSIFICATION

- **Policy #410:** *Explore and Research Cannabis Commercial Uses and Impacts*
- **Policy #414:** *New Strategic Budget Initiatives to Address New Structural Deficits Forecasted for FY 2025-2027 Period*

#3). Identify New General Fund Annual Revenue Sources

Primary Purpose:

Given the City's current financial condition as of December 13, 2023, there is a critical need to generate new annual revenue sources for our City's GF Budget. Additional revenues from a commercial cannabis business license tax, once established, would yield a new source of revenue to create or expand new City program and service delivery, including but not limited to: police services, homeless outreach services, youth and senior programs, rent control program (per Prop. 33 if passed by state-wide voters), and other general government uses, etc.

HdL CANNABIS FISCAL ANALYSIS (MAY 2023)



Following City Council policy direction via the Workplan, the City Manager and staff obtained a fiscal analysis from HdL Consultants who conducted a *Fiscal Analysis of the Commercial Cannabis Industry* for the City of San Pablo.

HIGHLIGHTS INCLUDE:

- HDL indicated that setting future tax rates is equally important as setting a clear and unambiguous direction for future City regulatory policy on regulating this industry in the City.
- **The City's best opportunity for developing tax revenue would come from cannabis retailers (both storefront and delivery-only), as there is both the greatest unmet consumer demand, and the greatest return in terms of revenue.**
- The City should set its tax rates for cannabis retailers to be **competitive** with the average of the other cities in the East Bay region. Of nearly 7 nearby jurisdictions, HdL sampled, five (5) which impose a average tax rate of 5.0%. This falls in the midpoint of HdL's commonly recommended range, which runs from 4.0% up to 6.0% (**See Figure 1 – HdL Fiscal Analysis below**)

Business Type	Recommended Rates
Cultivation (indoors)	\$7.00/sf to \$10.00/sf
Manufacturing	2.0% to 4.0% gross receipts
Distribution	2.0% to 4.0% gross receipts
Testing	1.0% to 2.0% gross receipts
Retail	4.0% to 6.0% gross receipts

HdL CANNABIS FISCAL ANALYSIS (CONTINUED)



HIGHLIGHTS INCLUDE: (CONTINUED)

- While HdL recommends these tax rates to be **competitive**, the City should not anticipate any significant revenues from other (non-retail) cannabis businesses at this time. While it is certainly possible that some such businesses may choose to locate in the City, non-retail businesses are difficult to anticipate, making it very hard to provide revenue projections for future GF budgeting purposes.
- Projected Commercial Cannabis Retail Revenue:** HdL projects that licensed, commercial cannabis retailers in the City of San Pablo could generate **between \$1.5 million and \$2.2 million in annual cannabis tax revenue**. These projections assume that commercial cannabis retailers are well-located to attract consumers from the surrounding service area, stretching from Albany to the south and to the Carquinez Bridge to the north (**See Figure 6 – HdL Fiscal Analysis below**).

Business Type	Number	Low Rate	Revenue	High Rate	Revenue
Retailers	2	4.00%	\$1,470,000	6.00%	\$2,200,000
Manufacturer	1	2.00%	\$50,000	4.00%	\$100,000
Distributor	1	2.00%	\$50,000	3.00%	\$100,000
Cultivation (Indoor)	1	\$7/sf	\$70,000	\$10/sf	\$100,000
Testing	0	1.00%	\$0	2.00%	\$0
Total			\$1,640,000		\$2,500,000

HdL CANNABIS FISCAL ANALYSIS (CONTINUED)



HIGHLIGHTS INCLUDE: (CONTINUED)

- Alameda County Cannabis Industry Market Impacts:** HdL reports that the current concentration of cannabis businesses demonstrates that the East Bay region (Alameda County) and Oakland, CA in particular have a **strong presence** within California’s commercial cannabis industry, with a large and diverse industry cluster that can both support and provide competition for additional cannabis businesses (**See Figure 4 – HdL Fiscal Analysis below**)

FIGURE 4: ACTIVE CANNABIS LICENSES IN THE EAST BAY REGION							
City/County	Cultivation/ Nursery	Distributor	Manufacturer	Retailer	Microbusiness	Testing Laboratory	Total
Albany	0	0	0	0	0	0	0
Berkeley	0	5	5	2	2	1	15
El Cerrito	0	0	0	1	0	0	1
Emeryville	0	2	0	3	3	0	0
Hercules	0	0	0	0	0	0	0
Oakland	77	78	55	132	47	0	389
Pinole	0	0	0	0	0	0	0
Richmond	19	3	2	3	0	0	27
Co. Unincorporated	0	0	0	1	0	0	1
San Pablo	0	0	0	0	0	0	0
Total	96	88	62	142	52	1	441

All data as of January, 2023. The number of licenses may not denote the number of businesses, as individual businesses may hold multiple licenses. In addition, DCC data may attribute some licenses to cities though the location is in the adjacent unincorporated area.

HdL CANNABIS FISCAL ANALYSIS (CONTINUED)



HIGHLIGHTS INCLUDE: (CONTINUED)

- San Pablo Retail Market Service Area:** In January 2023, HdL obtained data from the State of CA Department of Cannabis Cultivation showing that there are currently **5 licensed cannabis retailers** within the San Pablo service area (260,000 pop.), giving a current density of one (1) retailer for roughly every 52,000 people, far lower than the concentration when we include retailers in Alameda County and City of Oakland. This suggests that there is still opportunity for additional retailers in the Richmond/San Pablo area, despite the outsized impact of the City of Oakland on the region. **(See Figure 9 – HdL Fiscal Analysis below)**

Cannabis Retailers in the San Pablo Service Area					
City/County	Population	Retailer	Retailing Microbusiness	Total	Population per Retailer
El Cerrito	25,845	1	0	1	25,845
Hercules	26,091	0	0	0	N/A
Pinole	18,821	0	0	0	N/A
Richmond	115,639	3	0	3	38,546
Nearby Unincorporated	42,118	1	0	1	N/A
San Pablo	31,773	0	0	0	N/A
Total	260,287	5	0	5	52,057

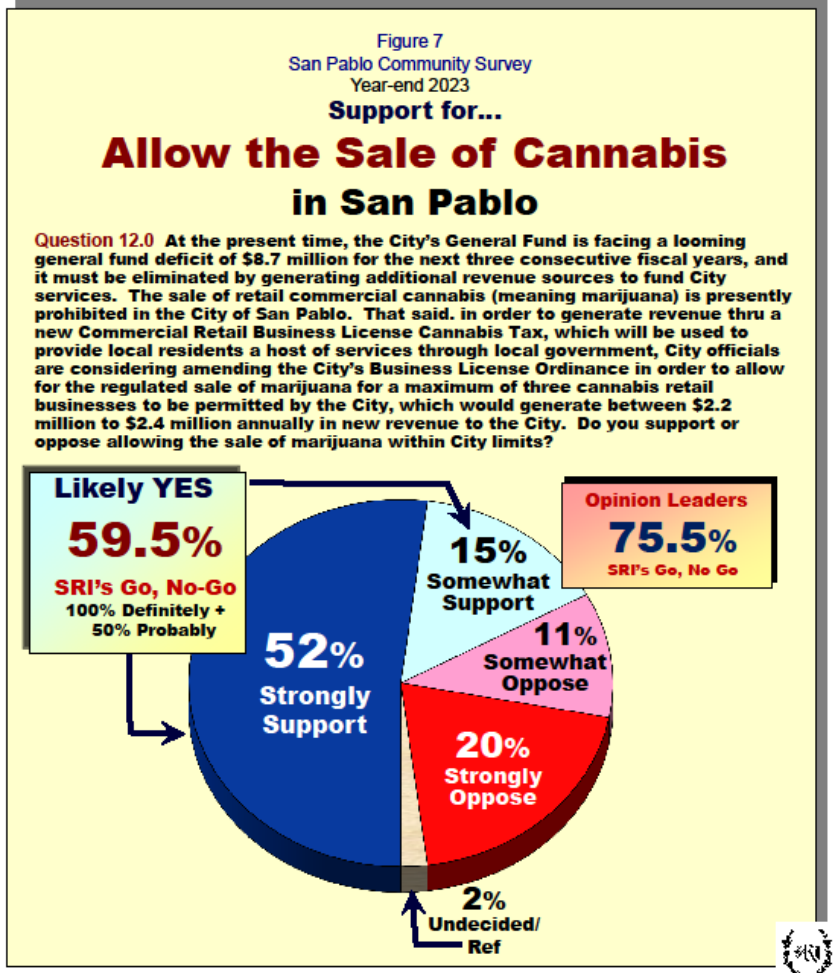
- NOTE:** HdL estimates a total \$22.5M in cannabis retail market gross receipts could be generated from the San Pablo Service Area (from the Carquinez Bridge to Albany) which can support **+13 additional commercial cannabis retailers** (Page 14 – Figure 10 of HdL Fiscal Analysis)

SRI COMMUNITY OUTREACH – 2023-24 ANNUAL SURVEY RESULTS



2023 Annual City Survey Results: Between December 2023-January 2024, SRI conducted the City’s Annual Survey which solicited feedback from the community at-large of those surveyed on allowing the sale of cannabis in the City due to the City’s current fiscal condition:

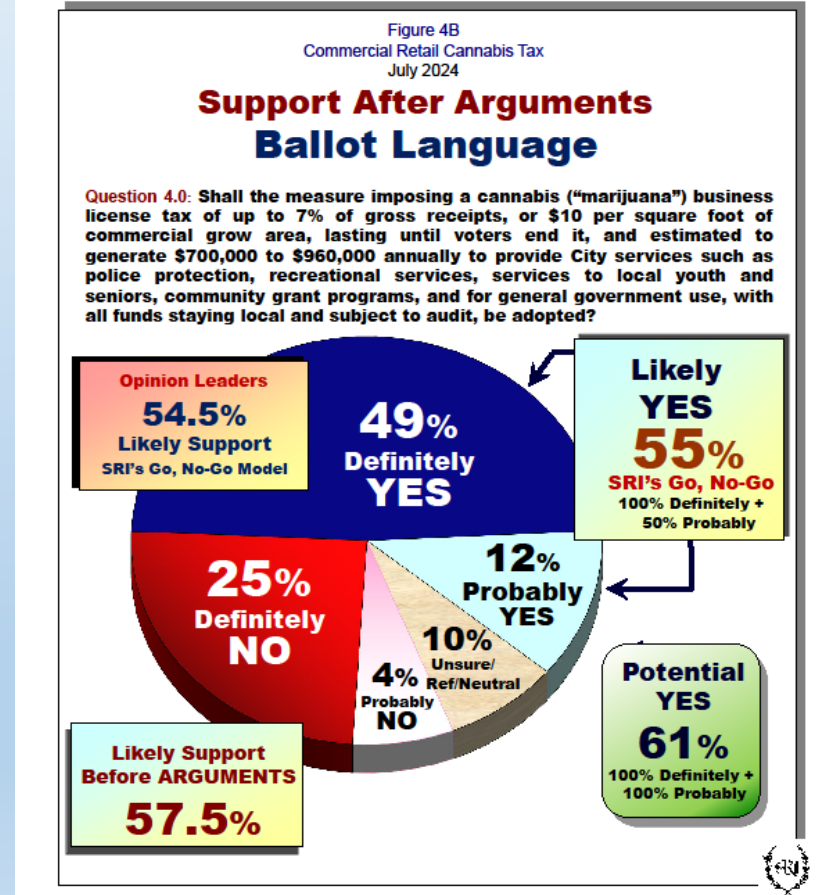
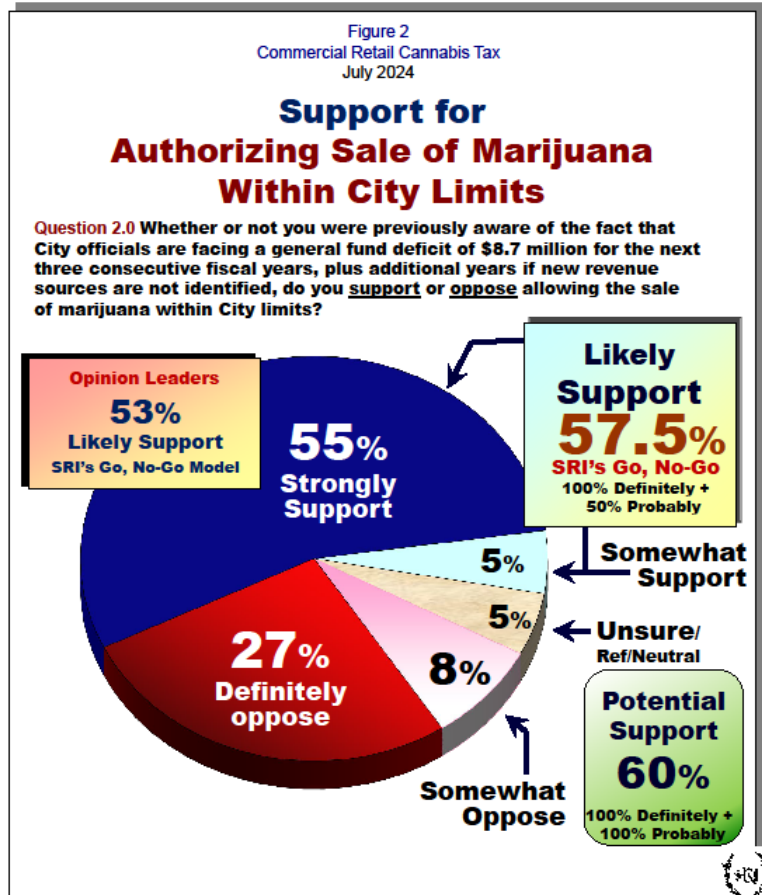
2023-24 Annual Survey Results were presented to the City Council last February 5, 2024





SRI COMMUNITY OUTREACH – 2024 ELECTORATE SURVEY RESULTS

- **2024 Electorate Survey Results:** Between June – July 2024, SRI conducted an electorate survey to solicit feedback from local voters on allowing the sale of cannabis and testing the proposed ballot language for the cannabis business license tax for the November 5, 2024 ballot.





Rates Under the Proposed Business License Tax

- The following table provides a summary of both the **maximum** and the **initial** tax rates contained in the proposed ballot measure Ordinance. These rates may be adjusted in the future by Resolution the City Council, and they will only apply if and when the City Council authorizes any of the specific uses.

Business Activity	Maximum Tax Rate	Initial Tax Rate
Retail sales or delivery business	7%	5%
Testing Laboratory	2%	2%
Manufacturing, processing, or distribution	6%	4%
Cultivation – Artificial Lighting	\$10.00 per square foot of canopy space	\$8.00 per square foot of canopy space
Cultivation – Artificial and Natural Lighting	\$8.00 per square foot of canopy space	\$6.00 per square foot of canopy space
Cultivation – No Artificial Lighting	\$4.00 per square foot of canopy space	\$4.00 per square foot of canopy space
Cultivation – Nursery	\$2.00 per square foot of canopy space	\$2.00 per square foot of canopy space



PROPOSED BALLOT LANGUAGE: NOVEMBER 5, 2024 ELECTION

PROPOSED BALLOT LANGUAGE FOR CITY COUNCIL CONSIDERATION:

The proposed Resolution would place an enabling Ordinance on the November 5, 2024 ballot to enact a business license tax on any potential cannabis activities that the City Council may choose to authorize in the future. The question to be placed before the voters is:

“Shall the measure imposing a cannabis (“marijuana”) business license tax of up to 7% of gross receipts, or \$10 per square foot of commercial grow area, lasting until voters end it, and estimated to generate \$1,500,000 to \$2,200,000 annually to provide City services such as police protection, recreational services, services to local youth and seniors, community grant programs, and for general government use, with all funds staying local and subject to audit, be adopted?”

Since the revenue may be used for *all* general municipal services, and is not restricted to any particular purposes, it is a general tax and will require the approval of a majority (more than 50%) of qualified electors casting votes.

CITY COUNCIL ACTION: REQUIRES 4/5THS VOTE (OR SUPERMAJORITY) OF COUNCILMEMBERS TO ADOPT AND PLACE MEASURE ON THE NOVEMBER 5, 2024 BALLOT



QUESTIONS?